



45 BROADWAY  
SUITE 920  
NEW YORK, NY 10006  
646-876-4400 MAIN

901 MAIN STREET  
SUITE 4000  
DALLAS, TX 75202  
214-742-3000 MAIN

ALEXANDER COGBILL  
ACogbill@zellelaw.com  
(646) 876-4420

KRISTIN CUMMINGS  
KCummings@zellelaw.com  
(214) 749-4218

January 21, 2025

**VIA ECF**

The Honorable Valerie Figueredo  
United States Magistrate Judge  
United States District Court  
for the Southern District of New York  
500 Pearl Street  
New York, New York 10007

**RE: *Austin Community College District v. XL Insurance America, Inc.*  
Case No. 24-CV-00603 (S.D.N.Y.)**

Dear Magistrate Judge Figueredo:

The parties to this litigation, Plaintiff Austin Community College District (“ACC”) and Defendant XL Insurance America, Inc. (“XL”), respectfully submit this joint letter.

On November 15, 2024, the Parties held a conference with Your Honor to discuss Plaintiff’s motion to compel production of documents in response to its Request for Production No. 12 (Documents concerning any coverage positions XL has taken with respect to any other insurance policy issued by XL with a Temperature Exclusion) and Request for Production No. 13 (Documents concerning any coverage positions XL has taken with respect to any other insurance policy issued by XL with a “Course of Construction” Extension). On November 25, 2024, Your Honor ordered: (1) Defendant to “search for and produce claim denial letters (from the relevant time period) for which the basis for the claim denial was the ‘Temperature Exclusion’ and/or ‘Course of Construction’ provisions in the policy agreement”; (2) Defendant to identify “any litigation involving Defendant where the dispute concerned the application or interpretation of the ‘Temperature Exclusion’ and/or ‘Course of Construction’ provisions in a policy agreement”; and (3) the parties to “work together to determine what documents Defendant can reasonably produce concerning coverage to an insured where the claim involved application of the ‘Temperature Exclusion’ and/or ‘Course of Construction’ provisions in the policy agreement.” ECF No. 24. Your Honor further ordered the parties to submit a joint letter to the Court by January 9, 2025 if the parties were unable to reach a resolution.

To: The Hon. Valerie Figueredo

Re: *Austin Community College District v. XL Insurance America, Inc.*

Date: January 21, 2025

Page 2

Since the hearing date, Defendant has worked diligently to identify the universe of documents potentially responsive to Plaintiff's Requests, and has now done so. Defendant therefore anticipates that it will be in a position to start a rolling production beginning on January 31, 2025.

Plaintiff is not in a position to evaluate the methodology of the search or the completeness and responsiveness of the production until it receives the documents, but the parties continue to have an open dialogue about the status of discovery and this particular production.

Given the amount of time it has taken to process, review, and produce these additional documents, the Parties agree that an extension of the discovery deadline has become necessary in this case. Given Your Honor's familiarity with the issues in this case and the potential need for further engagement with the Court on this and other discovery issues, the Parties believe it would make sense, and therefore consent, to have all matters relating to discovery as well as the schedule be referred to Your Honor. We seek guidance from Your Honor as to whether an application for an extension of the discovery deadline can be made directly to Your Honor, or whether we need to seek an additional reference for such purposes from District Judge McMahon.

We thank the Court for its attention to this matter.

**MEMO ENDORSED**



**HON. VALERIE FIGUEREDO  
UNITED STATES MAGISTRATE JUDGE**

Dated: 1/22/25

Scheduling related to discovery matters falls within the scope of the referral at ECF No. 21. The parties are directed to propose an amended discovery schedule by January 27, 2025.

Respectfully submitted,

**ZELLE LLP**

/s/ Alexander Cogbill  
Alexander Cogbill  
45 Broadway, Suite 920  
New York, NY 10006

*Counsel for Defendant  
XL Insurance America, Inc.*

**FORD O'BRIEN LANDY LLP**

/s/ Alexander Shaprio  
Alexander H. Shapiro  
275 Madison Avenue, 24th Floor  
New York, NY 10016

*Counsel for Plaintiff  
Austin Community College District*